AN ACT

To establish a Development Authority for the Mortlock Islands, and to provide for its organization, management, authority and responsibility, and for other purposes.

BE IT ENACTED BY THE CHUUK STATE LEGISLATURE:

Section 1. Establishment of Authority: The Mortlock Development Authority (MDA) is hereby established as a public corporation under the laws of the State of Chuuk and the Federated States of Micronesia. The principal office of the authority shall be at a location determined by the Board.

Section 2. Area of Services. The Authority is hereby established to serve the following municipalities within the State of Chuuk:

1. Nema;
2. Losap;
3. Piis-Emwar;
4. Namoluk;
5. Ettal;
6. Moch;
7. Kuttu;
8. Oneop;
9. Satowan;
10. Ta; and
11. Lukunoch

Section 3. Purposes of Authority. The Authority shall identify the development needs of its area of service; and shall promote by its own activity and that of others, economic development in coordination and cooperation with state and National Governments, and private and cooperative enterprises.

Section 4. Board of Directors.

(1) Establishment: There shall be a Board of Directors of the Mortlock Development Authority which
shall have general management and control over the
authority.

(2) Composition. The Board shall be composed of 12
members. One from each of the municipalities named in
Section 2 thereof, appointed by the municipal council
thereof; and the Governor's representative, if any, for
the area served by the authority as ex officio member
without vote. If there is no Governor's representative
for the area, the membership shall be 11.

(3) Terms of Office. Terms of office of municipal
representatives shall be for a period of three years,
except that initial terms of office and filling of
vacancies shall be as provided in this Act. The terms of
office shall commence on the day of the first meeting of
the Board.

(4) Organization Meeting. Not later than sixty
days after the effective date of this Act, the Board
shall meet to select its officers and conduct such other
business as it shall deem advisable. At the first such
meeting, the members of the Board representing the
municipalities shall determine by lot the length of their
initial terms as follows: Four for one year, four for
two years, and three for three years. The first meeting
of the Board shall be called by the Governor's
representative, or if there be no such official, by the
Chairman of the Mortlock Advisory Council, who shall
preside at such meeting until the officers named in
Subsection (7) of this Section have been elected.

(5) Vacancies. Each vacancy on the Board shall be
filled for the unexpired portion of the term in the same
manner as originally filled. Upon a determination that
a vacancy exists, the Chairman or, in his absence, the
presiding officers of the Board shall issue a notice of
vacancy to all members of the Board and to the municipal
government responsible for filling the vacancy.

(6) Removal.

1) Members of the Board may be removed from
the Board, for failure to attend three consecutive
meetings of the Board, or for incompetence, neglect
of duty, or malfeasance in office.

2) Removal of a member shall be by a three-
fourths majority vote of all other members of the
Board. Notification of intent to call for removal
pursuant to this section shall be made at least
thirty days in advance, by means which shall be
described in the bylaws of the Authority, and shall
include a summary of the basis of the charges
against the member and identification of the
witnesses to be called and evidence to be used.

(7) Officers. The Board shall elect from among its
members a Chairman, Vice-Chairman, and Secretary-
Treasurer. The Chairman shall ordinarily presiding
officer in the absence of these officers.

(8) Regular Meetings. Regular meeting shall be
held not less than once per calendar quarter, at such
time and place as shall from time to time be determined
by the Chairman upon notice as shall be provided in the
bylaws.

(9) Special Meetings. Special meeting shall be
called by the Chairman on his on initiative, or by
petition by one-third of the members, pursuant to notice
as shall be provided in the bylaws.

(10) Quorum. A quorum of all regular and special
meetings and business of the Board shall be six members.

(11) Executive Committee. The Board may, pursuant
to its bylaws, establish an Executive Committee,
determine the membership thereof, and assign its responsibilities.

(12) **Record of Meetings.** All meetings of the Board and the Executive Committee shall be public except when confidential matters relating to personnel are discussed. The Secretary-Treasurer or in his absence another member designated by the bylaws shall keep full and accurate minutes of all meetings which, except for confidential matters relating to personnel, shall be available for public inspection at reasonable times and places, as provided by laws.

Section 5. **Powers of the Authority.** The Authority, through its Board of Directors, shall have the following powers, obligations and duties:

(1) to identify the needs for the economic, educational, and social development of the area served by the authority, taking into account the cultural and social traditions of the area;

(2) to formulate plans and goals for the development of the resources of the area;

(3) to seek from all appropriate sources funds for the implementation of such plans;

(4) to administer programs and projects in furtherance of such developmental goals, either through its employees or by contract, or such other means as the Board deems advisable;

(5) to employ an Executive Director and a Budget and Finance Officer, and to set the terms of employment and to employ such administrative staff and other employees as may be required by law or deemed by the Board to be needed in furtherance of the goals of the Authority;

(6) to acquire in any lawful manner any property,
real, personal, or mixed, tangible or intangible, or any
interest therein, to hold, maintain and use the same; and
to sell, lease or otherwise dispose of the same at such
time, in such manner, and to the extent deemed necessary
to the Board to carry out its purposes;

(7) to establish, maintain, operate, and engage in,
upon its own account, any appropriate enterprise,
undertaking, or activities in further of the purposes of
the Authority; and to receive payments therefor, such
payments to go into the general revenues of the
authority;

(8) to enter into and perform such contracts or
other agreements or transactions as may be necessary in
the conduct of its business and on such terms as it may
deeem appropriate;

(9) to borrow money from time to time; provided
however, that the debts of the authority shall not be
debts of the State of Chuuk or any of its political
subdivisions; the assets of the State Government or its
political subdivisions shall not be used as security for
the debts of the authority, unless otherwise provided by
law;

(10) to levy and collect charges, fees, and other
payments for goods sold and services rendered by the
authority, except that no such levy shall be in the form
of a tax or assessment levied against the general public,
the users of public facilities, or property benefitted
by actions of the authority, unless specifically
authorized by law;

(11) to execute, in accordance with its bylaws, all
instruments necessary or appropriate in the exercise of
its powers;

(12) to take such other actions and assume such
other responsibilities as may be necessary or appropriate
to carry out the duties conferred upon it by law; and
(13) to approve bylaws, policies, and procedures,
for the guidance and operation of the authority.
Section 6. Suits and Legal Representation. The
authority may sue and be sued in its own name; provided that
any liability incurred by the authority, when not acting as an
agent of the State or other governmental entity, shall not be
a liability of the State or other governmental entity.
Section 7. Management. 
(1) The Authority, through the Board, may receive,
manage, invest, and disburse funds or other property
which may be appropriated, granted, or in any other
manner received from any source for the purposes of the
Authority. The Authority may use governmental accounting
procedures or, if appropriate, such financial or
accounting systems as may be prescribed by law for
commercial companies.
(2) The Authority may purchase supplies, equipment
and materials through its own purchasing procedures or
governmental purchasing procedures as it may deem
appropriate.
Section 8. Annual Budget. The Board shall prepare and
submit a budget for the Authority for each governmental fiscal
year, in the manner provided by law for the preparation and
submission of budgets of departments and offices in the State
Government of Chuuk. Overobligation and overexpenditure of
funds are prohibited, and shall be punishable in the same
manner as provided by law for the State Government of Chuuk.
Section 9. Executive Director. There shall be an
Executive Director of the Authority, who shall be appointed by
the Board to serve at its pleasure. The Board shall establish
the salary of the Executive Director. The Executive Director shall be responsible for the management of the programs, projects, and other activities of the Authority, and shall employ, supervise, and terminate the employees of the Authority in accordance with general terms and rules of employment by the Board, except as provided in Section 10 thereof.

Section 10. Budget and Finance Officer. The Executive Director shall appoint, with the concurrence of the Board, a Budget and Finance Officer, for such term as shall be provided in the bylaws. The Budget and Finance Officer shall receive and disburse all funds of the Authority. Before entering into his duties, he shall execute, at the expense of the Authority, a good and sufficient bond in the sum of not less than $10,000, or so much greater sum as may be established by the Board. Said bond shall be made with one or more sufficient sureties authorized to do business in the Federated States of Micronesia; and shall be approved as to form by the Attorney General of the State of Chuuk. The Budget and Finance Officer shall serve at all times under the direct supervision of the Executive Director.

Section 11. Accounts and Records. The Board and the Executive Director shall be jointly responsible to ensure that the Budget and Finance Officer prepares proper and complete books of accounts reflecting all income, expenditures, assets, and liabilities of the Authority, including appropriations, grants, and property. The Board, not later than sixty days after the close of each governmental fiscal year, shall submit to the Governor and the presiding officers of the Legislature a complete report showing the activities of the Authority during the fiscal year, the present condition of the Authority, and such other matters as the Board shall deem appropriate. The State Auditor, or if there be no such
officer, a licensed accountant appointed by the Board, shall inspect and audit all accounts of the Authority at least annually, and report thereon to the Governor and Speaker of the Legislature.

Section 12. Taxation of the Authority. To the extent that the legislative capacity of the State of Chuuk can prescribe, the authority shall be treated as a governmental entity and shall be exempted from taxation in the same manner as a governmental entity with regard to its functions that are governmental in character. With respect to functions that the Authority may undertake that are commercial in character, as that function is currently exercised by the government of the State of Chuuk or its subdivisions the Authority shall be treated as a non-profit commercial enterprise.

Section 13. Personnel Administration.

(1) The Authority may establish its own personnel system and policies, independent of the Chuuk State Public Service System; or may, by appropriate resolution of the Board addressed to the Governor, be included in the Chuuk State Public Service System for purposes of its personnel administration; provided that, if the Authority chooses to be included in the State Public Service System, the Board may designate from time to time such positions as it deems appropriate to be exempted from that system.

(2) All employees of the Authority, including the Executive Director and the Budget and Finance Officer, if members of the Chuuk State Public Service System immediately prior to their employment with the Authority, shall continue to accrue such rights as their seniority entitles them during employment with the Authority.

(3) The Board may, by general rules applicable to all employees, assign to such employees levels of wages
and benefits that take into account, in whole or in part, their prior governmental employment.

(4) The Chuuk State Government shall provide to all former employees of the Authority, who shall have terminated their employment in good standing, such rights of employment and seniority as their service to the Authority, as well as prior government service, would entitle them as if all such service were with the Chuuk State Government or the Trust Territory Government.

Section 14. Notification to Municipal Governments Regarding Projects. The Authority shall endeavor to inform affected municipal governments of any projects planned for their communities at the earliest practical opportunity and shall continue to inform the municipal governments and members of the public of the nature of the projects and any substantial changes in their plans.

Section 15. Land Acquisition and Relocation Assistance.

(1) Any activity of the Authority which requires the acquisition of a right in private real property shall be governed by the requirements of Chapters 16 and 17 of Title 67 of the Trust Territory Code. The State Government shall be responsible for such property acquisition and relocation assistance.

(2) The Authority shall promptly notify the State Government whenever it requires use or acquisition of private real property of the State or the Public Lands Authority. The notification shall describe with specificity the property to be used or acquired, the reasons for its need, the extent and duration of possession required, alternative possibilities that have been considered and rejected and the reasons therefore, and the date by which such acquisition or use is expected to commence. Any rights in private property acquired for
the benefit or use of the authority shall be held by the State Government, except as otherwise specifically provided by the law.

Section 16. **Repeal.** Chuuk State Laws Nos. 5-107, 5-110, and 5-118 which created the Mid-Mortlocks Development Authority, the Lower Mortlocks Development Authority and the Upper Mortlocks Development Authority, respectively including any and all amendments thereto are hereby repealed in their entireties.

Section 17. **Transition.** Present employees and staff, including members of the board of directors of Lower Mortlocks Development Authority, who continue to perform their duties and responsibilities of the Authority until the effective date of this Act shall continue as employees and staff and members of the board. All assets of the Lower Mortlocks Development Authority shall become assets of the new Mortlocks Development Authority.

Section 18. **Effective Date.** This Act shall take effect upon approval by the Governor or upon its becoming law without such approval.

Attested:

Signed by: Roger S. Neil, President
Chuuk State Legislature

Date: April 24, 1996

Signed by: Masahiro Christlieb
Speaker
House of Representatives
Chuuk State Legislature

Datasi Albert, Chief Clerk
Senate
Chuuk State Legislature
CHUUK STATE LAW NO. 3-96-03

ACT NO: 3-18

Attested:

Herter Sotim, Chief Clerk
House of Representatives
Chuuk State Legislature

Date: April 24, 1996

Approved by:
Marcellino Umwech
Acting Governor
Chuuk State

Date: __________

History : S.B.NO: 3-21; SO1; HD2
S.S.C.-R.NO: 3-2R-01